

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

JASIRI A. WALLOE,

Plaintiff

v.

TROY WILLIAMSON, et al.,

Defendants

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CIVIL NO. 4:CV-05-1024

(Judge Jones)

ORDER

December 13, 2005

THE BACKGROUND OF THIS ORDER IS AS FOLLOWS:

Plaintiff, Jasiri Walloe (“Plaintiff” or “Walloe”), an inmate presently confined in the Allenwood Federal Correctional Institution (“FCI-Allenwood”), in White Deer, Pennsylvania, filed this civil rights action pursuant to 28 U.S.C. § 1331. He seeks damages and injunctive relief based on allegations that Defendant, Warden Troy Williamson (“Defendant” or “Williamson”), failed to protect him from an assault by his cellmate while housed in the Special Housing Unit at FCI-Allenwood. On September 14, 2005, Defendant filed a motion for summary judgment, (doc. 11) and a statement of material facts and supporting brief were filed on September 28, 2005.

(Rec. Docs. 12 and 13). Plaintiff's brief in opposition to this motion is now long overdue and Plaintiff has neither made an appropriate filing nor requested an extension of time in which to do so. Thus, we will direct Plaintiff to file a brief in opposition.¹ See M.D. Pa. Local Rule 7.6.

Generally, a dispositive motion may not be granted merely because it is unopposed. However, when a plaintiff fails to prosecute or comply with a court order, the court may dismiss the action pursuant to Rule 41(b) of the Federal Rules of Civil Procedure.

We will consider dismissing this case for failure to prosecute and comply with a court order under the authority of Rule 41(b) if Plaintiff fails to oppose the motion or otherwise communicate with the court within twenty (20) days of the date of this order.

NOW, THEREFORE, IT IS HEREBY ORDERED THAT:

1. Plaintiff shall file, within twenty (20) days of the date of this Order, a brief in opposition to Defendant's motion for summary judgment. (Rec. Doc. 11). If Plaintiff fails to file a brief in opposition, we will consider dismissing Plaintiff's complaint

¹ . By Order dated May 23, 2005, this Court directed the parties' attention to the Local Rules of Court. (Rec. Doc. 4). The Order referred specifically to an opposing party's duty to file a brief in opposition to a motion within fifteen (15) days after service of the movant's brief. See M.D. Pa. Local Rule 7.6.

pursuant to Rule 41(b) for failure to prosecute and comply with a court order.

s/ John E. Jones III

John E. Jones III

United States District Judge